



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/550,574	04/17/2000	Michael F. VonGonten	1262.001US1	1106

21186 7590 08/29/2002

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

EXAMINER

VAN DOREN, BETH

ART UNIT	PAPER NUMBER
----------	--------------

3623

DATE MAILED: 08/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/550,574

Applicant(s)

VONGONTEN, MICHAEL P.

Examiner

Beth Van Doren

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a non-final, first office action on the merits. Claims 1-46 are pending.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it exceeds the maximum word length. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1, 10, 19, 28, and 36 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

6. Claims 1, 10, 19, 28, and 36 recite the limitations "belly component" and "a component of the curve (B) representing a degree of belly of the curve". The term "belly" is not a well-known term of the art or a well-known component of a curve. Looking to the specification to

Art Unit: 3623

determine the meaning of this term, page 4, lines 18-21 and 25-26, page 5, lines 12-15, page 16, lines 3-6, page 17, lines 11-14, page 18, lines 1, 5-7, and 21-26, page 23 lines 24-28, and page 24, lines 1-4, discuss the retrieving of the belly component, this term being a degree of the belly of the curve that serves as a modifier and is approximately a constant. However, the specification does not provide clear, concise, or exact terms as to what this component specifically is, how this component is specifically retrieved or derived, what this component is a constant of, or why exactly it is used as a modifier. Based on the deficiencies of the description of this element of the invention, a person skilled in the art would not be able to make or use the claimed invention without undue experimentation. Clarification is required.

7. Furthermore, based on the deficiencies discussed above concerning the "belly component", the formula recited in claims 1, 10, 19, 28, and 36 are not enabled to one of skill in the art. The specification does not provide an adequate written description of this component or the functionality of the equation to enable one of skill in the art to make or use the claimed invention without undue experimentation.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 10, 19, 28, 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claim 1 recites the limitation "slope component" on page 27, line 19. There is insufficient antecedent basis for this limitation in the claim. Based on the wording of the claim,

Art Unit: 3623

this limitation has been construed as "slope term", as recited in claim 1, line 17. Appropriate correction is required.

10. Claims 10, 19, 28, and 36 also recite the limitation "slope component". This limitation has been construed as "slope term" in each instance.

Inventorship

11. The article "Advertising exposure and advertising effects: New Panel-based findings" discloses the inventors of the underlying concept of the invention as Michael von Gonten and James F Donius. The current application discloses the inventor of the pending invention as Michael von Gonten. Due to the substantial overlap of subject matter between the disclosure of this article and the instant application, clarification of the inventorship is requested.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 28-33, 35-39, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over von Gonten et al. ("Advertising exposure and advertising effects: New Panel-based findings").

14. As per claim 28, von Gonten et al. teaches projecting market penetration of merchandise at a predetermined number of weeks, W, since a launch of a product, based on a set of weekly

Art Unit: 3623

sales data from the product launch (See page 3, section 2, page 4, section 3, page 6, section 2, and page 9, section 2, and the following explanation), comprising the steps of:

generating a curve from weekly sales data wherein the curve plots a set of weekly sales data versus number of weeks from the launch of a product (See figure 2 and page 2, section 1, page 3, sections 1, 2, and 5, page 4, sections 1, 2, and 3, page 5, sections 3 and 4, and page 6, section 1, which disclose the generation of a curve from weekly sales data wherein the curve plots weekly sales data versus the number of weeks since the launch of the product in advertising); and

retrieving and using components from this curve to determine a predicted or continued market penetration value, this predicted value calculated by the functional relationship between the short term and long term effects of sales penetration in the buying habits of consumers (See page 4, sections 2 and 3, page 5, sections 1, 2, and 3, page 6, sections 1 and 2, page 7, sections 2 and 3, and page 9, sections 1 and 2, which discuss the various components associated with the generated curve and using these components to determine projected market penetration. The projected market penetration is calculated using these components in a functional relationship between the short term and long term effects of the sales volume data).

However, von Gonten et al. does not expressly disclose:

retrieving a component of the curve (B) representing a degree of belly of the curve;

retrieving a component from the curve representing a slope term (S); or

the specific formula:

$$\text{Predicted} = \text{Exp}(s) \times W^B.$$

Von Gonten et al. discusses a functional relationship for projecting market penetration at a predetermined number of weeks since the launch of the product. It would have been obvious to

Art Unit: 3623

one of ordinary skill in the art at the time of the invention to formulate this relationship into a specific model in order to accurately represent the relationship already occurring in the generated graph and allow for its efficient use when repetitively making predictions about market penetration for clients.

Furthermore, while the graphs and curves of von Gonten et al. are computer generated, von Gonten et al. does not specifically teach that the disclosed analysis was implemented on a computer. Using computers to generate curves and graphs and perform computational analysis on datasets was old and well known at the time of the invention. It would have been obvious to one of ordinary skill in the art at the time of the invention to generate the figures and perform the analysis of von Gonten et al. using a computer readable medium in order to save time and make the results more consistent and accurate.

15. As per claim 29, von Gonten et al. discloses projecting market penetration wherein the method further includes simulating a value for market penetration for a predetermined number of weeks since product launch (See at least page 4, sections 2 and 3, which discusses simulating the model to determine a value for market penetration for a predetermined number of weeks since product launch, in this case 52 weeks).

16. As per claim 30, von Gonten et al. teaches projecting market penetration wherein the method further includes simulating a value for first repeat at a predetermined number of weeks since product launch (See at least page 3, section 2, 3, and 4, page 4, sections 2 and 3, page 7, sections 1 and 2, and page 8, section 1, which discuss simulating the value for the first repeat at a predetermined number of weeks since product launch).

17. As per claim 31, von Gonten et al. teaches projecting market penetration wherein the method further includes simulating a value for depth of repeat at a predetermined number of

Art Unit: 3623

weeks since product launch (See at least page 3, sections 2 and 3, page 4, sections 1, 2 and 3, and page 7, section 1, 2, and 3, which discuss simulating a value for depth of repeat at a predetermined number of weeks since product launch).

18. As per claim 32, von Gonten et al. teaches projecting market penetration wherein the method further comprises entering a set of data for a product into a client file (See page 2, section 2, and page 3, sections 1 and 2, wherein a dataset for a product is entered into the method).

19. As per claim 33, von Gonten et al. discloses projecting market penetration wherein the method further comprises generating a historical performance analysis for a product in a client file and entering a number of analysis variables into the historical performance analysis (See page 2, section 2, and page 3, 1 and 2, which discuss the historical data and some variables that are analyzed in projecting market penetration. See page 3, sections 4 and 5, and page 4, section 1, 2, and 3, which discuss the underlying concept of the historical analysis and some of the variables studied. See also page 5, section 3, page 6, section 2, page 7, sections 1 and 2, and page 9, section 2, which discuss the historical performance analysis).

20. As per claim 35, von Gonten et al. discloses projecting market penetration wherein the method further comprises entering a number of analysis variables into a client file prior to generating the curve (See figures 2-10. See page 5, sections 1-4, page 7, sections 1 and 2, and page 9, section 2, which discusses entering the analysis variables into the curve data before its generation).

21. As per claim 36, von Gonten et al. teaches a method for projecting market penetration of merchandise at a predetermined number of weeks, W, since a launch of a product, based on a set

Art Unit: 3623

of weekly sales data from the product launch (See page 3, section 2, page 4, section 3, page 6, section 2, and page 9, section 2, and the following explanation), the method comprising:

generating a curve from weekly sales data wherein the curve plots a set of weekly sales data versus number of weeks from the launch of a product (See figure 2 and page 2, section 1, page 3, sections 1, 2, and 5, page 4, sections 1, 2, and 3, page 5, sections 3 and 4, and page 6, section 1, which disclose the generation of a curve from weekly sales data wherein the curve plots weekly sales data versus the number of weeks since the launch of the product in advertising); and

retrieving and using components from this curve to determine a predicted or continued market penetration value, this predicted value calculated by the functional relationship between the short term and long term effects of sales penetration in the buying habits of consumers (See page 4, sections 2 and 3, page 5, sections 1, 2, and 3, page 6, sections 1 and 2, page 7, sections 2 and 3, and page 9, sections 1 and 2, which discuss the various components associated with the generated curve and using these components to determine projected market penetration. The projected market penetration is calculated using these components in a functional relationship between the short term and long term effects of the sales volume data).

However, von Gonten et al. does not expressly disclose:

retrieving a component of the curve (B) representing a degree of belly of the curve;

retrieving a component from the curve representing a slope term (S); or

the specific formula:

$$\text{Predicted} = \text{Exp}(s) \times W^B.$$

Von Gonten et al. discusses a functional relationship for projecting market penetration at a predetermined number of weeks since the launch of the product. It would have been obvious to

Art Unit: 3623

one of ordinary skill in the art at the time of the invention to formulate this relationship into a specific model in order to accurately represent the relationship already occurring in the generated graph and allow for its efficient use when repetitively making predictions about market penetration for clients.

22. As per claim 37, von Gonten et al. discloses a method wherein the set of weekly sales data comprises weekly data of initial purchases from the launch of the product, and wherein the method further comprises simulating a value for market penetration for a predetermined number of weeks since product launch (See page 2, section 2, and page 3, sections 1 and 2, wherein the set of weekly sales data comprises weekly data of initial purchases from the launch of the product. See page 4, sections 2 and 3, which discusses simulating the model to determine a value for market penetration for a predetermined number of weeks since product launch, in this case 52 weeks).

23. As per claim 38, von Gonten et al. teaches a method wherein the set of weekly sales data comprises weekly data of second purchases from the launch of the product, and wherein the method further comprises simulating a value for first repeat at a predetermined number of weeks since product launch (See page 2, section 2, and page 3, sections 1 and 2, wherein the set of weekly sales data comprises weekly data of second purchases (first repeats) from the launch of the product. See page 4, sections 2 and 3, which discusses simulating the model to determine a value for market penetration for a predetermined number of weeks since product launch, in this case 52 weeks).

24. As per claim 39, von Gonten et al. teaches a method wherein the set of weekly sales data comprises weekly data of Nth purchases from the launch of the product, where $N \geq 3$, and the method further comprises simulating a value for depth of repeat at a predetermined number of

Art Unit: 3623

weeks since product launch (See page 2, section 2, and page 3, sections 1 and 2, wherein the set of weekly sales data comprises weekly data of *N*th purchases (additional repeats) from the launch of the product. See page 4, sections 2 and 3, which discusses simulating the model to determine a value for market penetration for a predetermined number of weeks since product launch, in this case 52 weeks).

25. As per claim 42, von Gonten et al. teaches a method further comprising simulating a value for market penetration for a predetermined number of weeks since product launch (See at least page 4, sections 2 and 3, which discusses simulating the model to determine a value for market penetration for a predetermined number of weeks since product launch, in this case 52 weeks).

26. Claims 1-27, 34, 40, 41, and 43-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over von Gonten et al. ("Advertising exposure and advertising effects: New Panel-based findings") in view of Eder (U.S. 6,321,205).

27. As per claims 1, 10, and 19, von Gonten et al. teaches a system for facilitating modeling of market sales volume comprising:

means for projecting penetration of products or merchandise at a predetermined number of weeks since a launch of a product, based on weekly data of *initial*, *second*, and *N*th purchases from a launch of a product (See page 3, section 2, page 4, section 3, page 6, section 2, and page 9, section 2, and the following explanation), the method comprising:

generating a curve from weekly sales data wherein the curve plots a set of weekly sales data versus number of weeks from the launch of a product (See figure 2 and page 2, section 1,

Art Unit: 3623

page 3, sections 1, 2, and 5, page 4, sections 1, 2, and 3, page 5, sections 3 and 4, and page 6, section 1, which disclose the generation of a curve from weekly sales data wherein the curve plots weekly sales data versus the number of weeks since the launch of the product in advertising); and

retrieving and using components from this curve to determine a predicted or continued market penetration value, this predicted value calculated by using said components with the functional relationship between the short term and long term effects of sales penetration in the buying habits of consumers (See page 4, sections 2 and 3, page 5, sections 1, 2, and 3, page 6, sections 1 and 2, page 7, sections 2 and 3, and page 9, sections 1 and 2, which discuss the various components associated with the generated curve and using these components to determine projected market penetration. The projected market penetration is calculated using these components in a functional relationship between the short term and long term effects of the sales volume data).

However, von Gonten et al. does not expressly disclose:

a server including a database having a number of client files, wherein each client file is an organized client data file including a number of linked web pages which are downloadable and displayable to a client program at a remote client having a graphical user interface;

an input device coupled to the remote client and the on-line to the server;

at least one web page including a data field for entering a parameter for analysis of a client file; and

software means operable on the server and the client program at the remote client for projecting penetration of products or merchandise.

Art Unit: 3623

Eder discloses:

a server including a database having a number of client files, wherein each client file is an organized client data file including a number of internet linked user interfaces which are downloadable and displayable to a client program at a remote client having a graphical user interface (See column 8, lines 9-25, and column 9, lines 3-9, 10-18, and 35-40, which discloses a server with a database having a number of client files. Each client file is an organized client data file and includes a number of internet linked graphical user interfaces which are downloadable and displayable to a client program at a remote client. The user interacts with the user interface portion of the application. The majority of the application software and its functioning resides on a separate application server. The Internet links the interface and the application software);

an input device coupled to the remote client and on-line to the server (See column 9, lines 3-9, 30-33, 35-40, and 50-53, which disclose an input device at the remote client, this remote client being online to the server);

at least one internet based remote user interface, operable with a server, including a data field for entering a parameter for analysis of a client file (See column 5, lines 3-10, which discusses the entering of a parameter for analysis of a client file by the user. The user interacts with the user interface portion of the application. The majority of the application software and its functioning resides on a separate application server. The interface and the application software are linked by the Internet); and

software means operable on the server and the client program at the remote client for projecting penetration of products or merchandise (See column 5, lines 3-10, and column 9, lines 3-9, 19-33, and 41-48, which discloses software means operable on the server and the client program at the remote client for predicting the penetration of products and merchandise).

However, while Eder discloses internet-based remote user interfaces linked to servers that contain the application software, Eder does not expressly disclose the use of web pages. It would have been obvious to one of ordinary skill in the art at the time of the invention to use web pages to implement the internet-based application functions disclosed by Eder in order to make the system more accessible to its clients by giving them the ability to access the user interfaces at any remote, internet connected terminal instead of just those that have the application's user interfaces downloaded on them.

Both von Gonten et al. and Eder discuss forecasting future sales/value of a business using input datasets about the company and algorithms that account for changes in this data over time and the long-term effects of present events. It would have been obvious to one of ordinary skill in the art at the time of the invention to automate the method disclosed by von Gonten et al. in the network environment of Eder in order to enhance the efficiency of the forecasting by decreasing the time and money consumed by the forecasting process.

Furthermore, while von Gonten et al. discloses retrieving and using components from a generated curve to determine a predicted or continued market penetration value and using these components in the functional relationship between the short term and long term effects of sales penetration, von Gonten et al. does not expressly disclose:

retrieving a component of the curve (B) representing a degree of belly of the curve;

retrieving a component from the curve representing a slope term (S); or

the specific formula:

$$\text{Predicted} = \text{Exp}(s) \times W^B.$$

Art Unit: 3623

Von Gonten et al. discusses a functional relationship for projecting market penetration at a predetermined number of weeks since the launch of the product. It would have been obvious to one of ordinary skill in the art at the time of the invention to formulate this relationship into a specific model in order to accurately represent the relationship already occurring in the generated graph and allow for its efficient use when repetitively making predictions about market penetration for clients.

28. As per claims 2, 11, and 20, von Gonten et al. teaches a listing of sales data for a client (See page 2, section 2, and page 3, sections 1 and 2). However, von Gonten et al. does not expressly teach a system wherein at least one web page includes an input file comprising a listing of input sales data for a client file and wherein the software means operable on the server and the client program at the remote client is further operable for modifying the input file in order to add additional sales data.

Eder teaches a system wherein at least one Internet based user interface includes an input file comprising a listing of input sales data for a client file and wherein the software means operable on the server and the client program at the remote client is further operable for modifying the input file in order to add additional sales data (See column 8, lines 11-25, column 9, lines 35-40 and 50-54, and column 10, lines 1-15, wherein at least one Internet based user interface includes an input file comprising a listing of input sales data for a client file. See column 9, lines 4-9, 20-33, and 35-40, column 20, lines 5-22, wherein the user has the ability to modify the data in the input file to add additional data).

However, while Eder discloses internet-based remote user interfaces linked to servers that contain the application software, Eder does not expressly disclose the use of web pages. It would have been obvious to one of ordinary skill in the art at the time of the invention to use web pages

Art Unit: 3623

to implement the internet-based application functions disclosed by Eder in order to make the system more accessible to its clients by giving them the ability to access the user interfaces at any remote, internet connected terminal instead of just those that have the application's user interfaces downloaded on them.

Both von Gonten et al. and Eder discuss forecasting future sales/value of a business using input datasets about the company and algorithms that account for changes in this data over time and the long-term effects of present events. It would have been obvious to one of ordinary skill in the art at the time of the invention to automate the method disclosed by von Gonten et al. in the network environment of Eder in order to enhance the efficiency of the forecasting by decreasing the time and money consumed by the forecasting process.

29. As per claims 3, 12, and 21, von Gonten et al. discloses entering a set of data for a product into a file (See page 2, section 2, and page 3, section 1). However, von Gonten et al. does not expressly disclose the software means of a system.

Eder teaches a system wherein the software means operable on the server and the client program is further operable for entering a set of data for a product into a client file (See column 8, lines 11-25, and column 9, lines 3-9 and 20-40, which discloses a system with software means operable on the server and the client program is further operable for entering a set of data for a product into a client file).

Both von Gonten et al. and Eder discuss receiving datasets about products sold for forecasting future sales/value of a business. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the software means of Eder when receiving the datasets of von Gonten et al. in order to enable the system to collect and store the data it needs in a consistent and logical order.

Art Unit: 3623

30. As per claims 4, 13, and 22, von Gonten et al. discloses performing a historical performance analysis and using a number of analysis variables in this historical performance analysis (See page 2, section 2, and page 3, 1 and 2, which discuss the historical data and some variables that are analyzed in projecting market penetration. See page 3, sections 4 and 5, and page 4, section 1, 2, and 3, which discuss the underlying concept of the historical analysis and some of the variables studied. See also page 5, section 3, page 6, section 2, page 7, sections 1 and 2, and page 9, section 2). However, von Gonten et al. does not expressly disclose a system wherein at least one web page includes the historical performance analysis for a client file and wherein the software means operable on the server and the client program at the remote client is further operable for entering a number of analysis variables into the historical performance analysis.

Eder discloses a system wherein at least one Internet based user interface includes a historical performance analysis for a client file and wherein the software means operable on the server and the client program at the remote client is further operable for entering a number of analysis variables into the historical performance analysis (See column 5, lines 3-10, column 8, lines 6-25, column 9, lines 20-45, in which data and analysis value variables are entered into the system by the user via the software means operable on the server and the client program at the remote client. Using these values a performance analysis about said business is performed using the historical data about said client stored in the database).

However, while Eder discloses internet-based remote user interfaces linked to servers that contain the application software, Eder does not expressly disclose the use of web pages. It would have been obvious to one of ordinary skill in the art at the time of the invention to use web pages to implement the internet-based application functions disclosed by Eder in order to make the

Art Unit: 3623

system more accessible to its clients by giving them the ability to access the user interfaces at any remote, internet connected terminal instead of just those that have the application's user interfaces downloaded on them.

Both von Gonten et al. and Eder perform historical performance analysis using analysis variables for a business. It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the historical performance analysis of von Gonten et al. with the system of Eder in order to enhance the efficiency of the analysis and reduce the time it takes to perform said analysis. These are old and well known benefits that automation offers.

31. As per claims 5, 14, and 23, von Gonten et al. teaches displaying the curve generated by computer means and entering a number of analysis variables into the curve prior to its generation (See figures 2-10 which disclose displaying a curve generated by computer means. See page 5, sections 1-4, page 7, sections 1 and 2, and page 9, section 2, which discusses entering the analysis variables into the curve data before its generation). However, von Gonten et al. does not expressly disclose a system wherein at least one web page includes a page for displaying the curve generated by the software means and wherein the software means operable on the server and the client program at the remote client is further operable for entering a number of analysis variables into the curve prior to its generation.

Eder teaches a system wherein at least one Internet based user interface includes displaying the analysis generated by the software means and wherein the software means operable on the server and the client program at the remote client is further operable for entering a number of analysis variables into the curve prior to its generation (See column 5, lines 3-10, column 8, lines 6-25, column 9, lines 20-45, in which data and analysis value variables are entered into the system prior the generation of the curve by the user via the software means

Art Unit: 3623

operable on the server and the client program at the remote client. Using these values a performance analysis about said business is performed and the analysis is displayed to the user).

However, while Eder discloses internet-based remote user interfaces linked to servers that contain the application software, Eder does not expressly disclose the use of web pages. It would have been obvious to one of ordinary skill in the art at the time of the invention to use web pages to implement the internet-based application functions disclosed by Eder in order to make the system more accessible to its clients by giving them the ability to access the user interfaces at any remote, internet connected terminal instead of just those that have the application's user interfaces downloaded on them.

Both von Gonten et al. and Eder teach displaying an analysis of a business aspect using analysis variables. It would have been obvious to one of ordinary skill in the art at the time of the invention to generate this curve using the system implementation of Eder in order to enhance the efficiency of the analysis and reduce the time it takes to perform said analysis. These are old and well-known benefits that automation offers.

32. As per claims 6, 15, and 24, von Gonten et al. discloses a method wherein a data set is received for analysis (See page 2, section 2, and page 3, sections 1 and 2, which discloses the data set concerning the product and its launch). However, von Gonten et al. does not disclose a system wherein the system further includes a filter which organizes an electronically transmitted data file received on-line from a user in non-aggregate format into the organized client data file for storage in the database of the server.

Eder discloses a system wherein the system further includes a filter which organizes an electronically transmitted data file received on-line from a user in non-aggregate format into the organized client data file for storage in the database of the server (See figure 2, column 7, lines

Art Unit: 3623

5-8, column 8, lines 1-25, and column 10, lines 24-40, which discloses organizing an electronically transmitted data file received on-line from a user and aggregating the data into the organized client data file for storage in the database of the server).

Both von Gonten et al. and Eder disclose receiving data sets for analysis and forecasting for a business. It would have been obvious to one of ordinary skill in the art at the time of the invention to filter the received data of von Gonten et al. and store this data in an online database in order to increase the efficiency of the database by increasing the data organization and reducing the time necessary for processing. Furthermore, it would have been obvious to one of ordinary skill in the art at the time of the invention to automate the method disclosed by von Gonten et al. in the network environment of Eder in order to enhance the efficiency of the forecasting by decreasing the time and money consumed by the forecasting process.

33. As per claims 7, 16, and 25, von Gonten et al. teaches a system wherein the data file includes a set of weekly sales data and data representing a number of weeks since a launch of a product (See page 2, section 2, page 3, sections 2 and 3, and page 5, sections 3 and 4, wherein the received data includes a set of weekly sales data and data representing a number of weeks since a launch of a product).

34. As per claims 8, 17, and 26, discloses von Gonten et al. discloses receiving a data set and using this data set for the analysis (See page 2, section 2, and page 3, sections 1 and 2, which discloses the data set concerning the product and its launch). However, von Gonten et al. does not expressly disclose a system wherein the software means is further operable on the filter and uses codes in the electronically transmitted data file transmitted from any number of different user platforms to organize the electronically transmitted data file into the organized client data file.

Art Unit: 3623

Eder teaches a system wherein the software means is further operable on the filter and uses codes in the electronically transmitted data file transmitted from any number of different user platforms to organize the electronically transmitted data file into the organized client data file (See figure 2, column 7, lines 5-8, column 8, lines 1-25, column 10, lines 24-40, which discusses electronically transmitting a data file on-line from a client to the server in a non-aggregate format from any number of different user platforms and filtering this data).

Both von Gonten et al. and Eder disclose receiving data sets for analysis and forecasting for a business. It would have been obvious to one of ordinary skill in the art at the time of the invention to filter the received data of von Gonten et al. and store this data in an online database in order to increase the efficiency of the database by increasing the data organization and reducing the time necessary for processing. Furthermore, it would have been obvious to one of ordinary skill in the art at the time of the invention to automate the method disclosed by von Gonten et al. in the network environment of Eder in order to enhance the efficiency of the forecasting by decreasing the time and money consumed by the forecasting process.

35. As per claims 9, 18, and 27, neither von Gonten et al. nor Eder teaches a system wherein the software means operable on the server and the client program is further operable for providing on-line systems support.

On-line systems support is an old and well-known feature of on-line software means. It would have been obvious to one of ordinary skill in the art at the time of the invention to include on-line systems support in the software means of Eder to increase the user friendless and the ease of use of the software means by allowing the user to obtain quicker help.

Furthermore, both von Gonten et al. and Eder forecasting future sales/value of a business using input datasets and algorithms. It would have been obvious to one of ordinary skill in the

Art Unit: 3623

art at the time of the invention to automate the method disclosed by von Gonten et al. in the network environment of Eder in order to enhance the efficiency of the forecasting by decreasing the time and money consumed by the forecasting process.

36. As per claim 34, von Gonten et al. teaches projecting market penetration wherein the method further comprises displaying the curve (See figures 2-10). However, von Gonten et al. does not expressly disclose displaying the curve on a graphical user interface at a remote client.

Eder discloses displaying the results of the analysis on a graphical user interface at a remote client (See at least column 5, lines 51-64, column 9, lines 35-45, column 7, lines 47-49, column 45, lines 13-38, and column 46, lines 46-67, which discuss displaying results data concerning the analysis on a window at the remote client).

Both Eder and von Gonten et al. discuss displaying the results of an analysis of business data for the purpose of forecasting. It would have been obvious to one of ordinary skill in the art at the time of the invention to display the curve of von Gonten et al. on the user interface of Eder in order to present a clearer depiction of the analysis results to the user.

37. As per claim 40, von Gonten et al. teaches a method wherein generating the curve further comprises:

accessing a client data, wherein the data has a number of clients and the data includes history of sales of a product from product launch (See page 2, section 2, and page 3, sections 1 and 2, which discusses client data, the data having a number of clients and products and sales information concerning the products since their launch).

inputting a value for a number of weeks at which market penetration is to be projected (See page 4, section 3, page 6, section 2, and page 9, section 2, which discuss inputting a value for a number of weeks at which market penetration is to be projected); and

Art Unit: 3623

simulating a market penetration analysis using the organized data and the W value (See page 4, section 3, page 6, section 2, and page 9, section 2, which simulate a market penetration analysis using the stored data and the W value for the model).

However, von Gonten et al. does not expressly disclose accessing a client file in the server database on-line from a remote client, wherein the server database has a number of client files, which are downloadable and displayable to a client program at the remote client.

Eder discloses accessing a client file in the server database on-line from a remote client, wherein the server database has a number of client files, which are downloadable and displayable to a client program at the remote client (See column 9, lines 10-33, which discloses a server database with a number of client files. See at least column 5, lines 51-64, column 9, lines 35-45, column 7, lines 47-49, column 45, lines 13-38, and column 46, lines 46-67, which discuss accessing the client files at the server database from the remote client and displaying client file data concerning the analysis on a window at the remote client)

Both von Gonten et al. and Eder discuss using sales data acquired from clients to make forecasts concerning businesses. It would have been obvious to one of ordinary skill in the art at the time of the invention to place the data and the simulation capabilities of von Gonten et al. on the Internet based system of Eder in order to increase the client's access and interaction with the analysis and its results.

38. As per claim 41, von Gonten et al. does not expressly disclose a method wherein accessing a server database on-line includes accessing the server database on-line over a secure data network.

Eder discloses accessing a server database on-line over a network (See column 9, lines 3-18). However, Eder does not expressly disclose that the network is a secure data network.

Using secure data networks to maintain the integrity and privacy of accessed and transmitted data is old and well known. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a secure data network when accessing and transmitting data over a network in order to maintain the integrity and privacy of the data and increase customer confidence in using the system.

Furthermore, both von Gonten et al. and Eder forecasting future sales/value of a business using input datasets and algorithms. It would have been obvious to one of ordinary skill in the art at the time of the invention to automate the method disclosed by von Gonten et al. in the network environment of Eder in order to enhance the efficiency of the forecasting by decreasing the time and money consumed by the forecasting process.

39. As per claim 43, von Gonten et al. discloses a method further comprising simulating the value for first repeat at a predetermined number of weeks since product launch (See at least page 3, section 2, 3, and 4, page 4, sections 2 and 3, page 7, sections 1 and 2, and page 8, section 1, which discuss simulating the value for the first repeat at a predetermined number of weeks since product launch).

40. As per claim 44, von Gonten et al. teaches a method further comprising simulating a value for depth of repeat at a predetermined number of weeks since product launch (See at least page 3, sections 2 and 3, page 4, sections 1, 2, and 3, and page 7, section 1, 2, and 3, which discuss simulating a value for depth of repeat at a predetermined number of weeks since product launch).

41. As per claim 45, von Gonten et al. discloses a method wherein a data set is received for analysis (See page 2, section 2, and page 3, sections 1 and 2, which discloses the data set concerning the product and its launch). However, von Gonten et al. does not disclose:

Art Unit: 3623

electronically transmitting a data file on-line from a remote client to the server in a non-aggregate format from any number of different user platforms;

filtering the data file at the server; and

wherein filtering the data file includes organizing the data file into an organized, customizable client file.

Eder discloses:

electronically transmitting a data file on-line from a remote client to the server in a non-aggregate format from any number of different user platforms (See column 8, lines 1-25, column 10, lines 24-40, which discusses electronically transmitting a data file on-line from a client to the server in a non-aggregate format from any number of different user platforms);

filtering the data file at the server (See column 8, lines 1-25, where the data is extracted from a database at the remote client and filtered at the server); and

wherein filtering the data file includes organizing the data file into an organized, customizable client file (See figure 2, column 7, lines 5-8, and column 8, lines 1-25, which discuss the ability to filter the data file into an organized, customizable client file).

Both von Gonten et al. and Eder disclose receiving data sets for analysis and forecasting for a business. It would have been obvious to one of ordinary skill in the art at the time of the invention to filter the received data of von Gonten et al. and store this data in an online database in order to increase the efficiency of the database by increasing the data organization and reducing the time necessary for processing. Furthermore, it would have been obvious to one of ordinary skill in the art at the time of the invention to automate the method disclosed by von Gonten et al. in the network environment of Eder in order to enhance the efficiency of the forecasting by decreasing the time and money consumed by the forecasting process.

Art Unit: 3623

42. As per claim 46, neither von Gonten et al. nor Eder teaches a system wherein the method includes providing on-line systems support.

On-line systems support is an old and well-known feature of on-line software means. It would have been obvious to one of ordinary skill in the art at the time of the invention to include on-line systems support in the software means of Eder to increase the user friendless and the ease of use of the software means by allowing the user to obtain quicker help.

Furthermore, both von Gonten et al. and Eder forecasting future sales/value of a business using input datasets and algorithms. It would have been obvious to one of ordinary skill in the art at the time of the invention to automate the method disclosed by von Gonten et al. in the network environment of Eder in order to enhance the efficiency of the forecasting by decreasing the time and money consumed by the forecasting process.

Requirement for Information

43. Applicant of this application is required under 37 CFR §1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application. The information is required to identify products and services embodying the disclosed subject matter of projecting market penetration and identify the properties of similar products and services found in the prior art. Specifically, examiner requests information concerning the speech delivered by the applicant at the ESOMAR seminar held in Rome in November of 1996, the methodology disclosed in this speech, and the equations and methods used in both this speech and the news article "Advertising exposure and advertising effects: New Panel-based findings" by the applicant and James F Donius, dated July/August of 1997.

Art Unit: 3623

The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete response to the requirement for that item.

Conclusion

This Office action has an attached requirement for information under 37 CFR §1.105. A complete response to this Office action must include a complete response to the attached requirement of information. The time period for this reply to the attached requirement coincides with the time period for reply to this office action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Maeda et al (U.S. 5,377,095) discloses an analysis system that predicts the sales of items using an analysis term. The analysis is displayed.

Ando (U.S. 6,032,125) teaches forecasting demand using stored data. The data is looked at in weekly increments and is fed into forecasting models.

Cunnigham et al. (U.S. 6,029,193) teaches online, web-based databases that interfaces with a user and evaluates promotional plans for products.

Fields et al. (U.S. 5,459,656) teaches projecting business demand using stored historical data.

Ouimet et al. (U.S. 6,078,893) teaches the creation of demand models using sales history data. The method focuses on the parameters of these models.

Art Unit: 3623

Howard (*Buyer Behavior in Marketing Strategy*) teaches consumer decision models and market entry.

Longman ("If not effective frequency, then what?") discusses market penetration data and forecasting using this data.

Donius ("Market Tracking: A strategic reassessment and planning tool") discusses the state of the art in measuring market penetration.

Donius ("Campaign simulation via multiple exposure on-air copy testing") discusses the state of the art in measuring market penetration.

Donius ("Marketplace Measurement: The evolution of market testing) discusses the state of the art in measuring market penetration.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

ewd
bvd

August 23, 2002


TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600